

**APPLICATION FOR UNITED STATES  
PATENT PURSUANT TO 37 CFR 1.47(b)  
PETITION, DECLARATION AND  
POWER OF ATTORNEY**

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MAR 13 2002

PETITION'S OFFICE

**A. Petition**

Lehigh Safety Shoe Co. LLC., a Delaware Limited Liability Company, having a place of business at 120 Plaza Drive, Suite A, Vestal, N.Y. 13850-3640 (hereafter "Lehigh Safety Shoe"), hereby petitions the United States Patent Office that it be permitted to file a patent application, pursuant to 37 CFR 1.47(b), for a "Metatarsal Guard" invented by Ruk Peterson.

The undersigned Richard Jones, President of Lehigh Safety Shoe submits this Petition on behalf of Lehigh Safety Shoe. The statements made herein are based on my own knowledge, on information and belief and on advise of counsel. The basis of this Petition is that Lehigh Safety Shoe has a proprietary interest in the subject matter of the application; that Ruk Peterson, a former employee of Lehigh Safety Shoe, and its predecessor companies, entered into a Confidential Information and Assignment Agreement with Endicott Johnson Corporation ("Assignment Agreement"), that the Assignment Agreement was transferred with the assets of the safety shoe business from Endicott Johnson Corporation to Lehigh Safety Shoe Co., and that as a result of Lehigh Safety Shoe Co., merging with and into Lehigh Safety Shoe, Lehigh Safety Shoe has the benefit of the Assignment Agreement; that Mr. Peterson's conduct in this matter constitutes a refusal to sign the application papers and that the filing of the application is necessary to prevent irreparable damage and preserve the rights of the parties.

The facts in support of this Petition are set forth in the Declaration of Richard Jones, in Support of Petition to File Application for United States Patent Pursuant to 37 CFR 1.47(b),

annexed hereto as Exhibit A, and the Declaration of Milton Wolson, in Support of Petition to File Application for United Patent Pursuant to 37 CFR 1.47(b), annexed hereto as Exhibit B.

The Declaration of Richard Jones recites facts which demonstrate that Lehigh Safety Shoe has a proprietary interest in the invention which is the subject matter of the patent application and that Lehigh Safety Shoe has the benefit of the assignment of the invention from Ruk Peterson (MPEP §409.03(f)). The Declaration of Milton Wolson recites facts which demonstrate that Mr. Peterson's conduct constitutes a refusal to sign the application papers (MPEP §409.03(d)); that irreparable damage will occur unless a filing date is received and that a filing date is required to preserve the rights of the parties (MPEP §409.03(g)). Mr. Wolson's Declaration also sets forth Mr. Peterson's last known address.

**B. Declaration and  
Power of Attorney**

Lehigh Safety Shoe declares that Ruk Peterson is believed to be the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled as set forth below and which is described in the attached specification, that the specification including the claims were forwarded to Ruk Peterson, that no application for patent or inventor's certificate on this invention has been filed by Applicant in any country foreign to the United States of America, that no application for patent or inventor's certificate on this invention is known to have been filed by Ruk Peterson in any country foreign to the United States of America; and that Applicant acknowledges its duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations,

## Section 1.56(a).

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Title of Invention: METATARSAL GUARD

Name of Inventor: Ruk Peterson

Resident and  
Post Office Address: 1039 Elton Drive  
Endicott, N.Y. 13760

Country of Citizenship: U.S.A.

Applicant hereby appoints Milton Wolson, Reg. No. 22,620, of Malina & Wolson, 60 East 42<sup>nd</sup> Street, New York, NY 10165, telephone (212) 986-7410, facsimile (212) 983-8421, my attorney to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Please send correspondence with respect to this application to Milton Wolson, Esq. at the above address.

Date:

5/25/01

LEHIGH SAFETY SHOE CO. LLC



Richard Jones  
President

**DECLARATION OF RICHARD JONES  
IN SUPPORT OF PETITION TO  
FILE APPLICATION FOR UNITED STATES  
PATENT PURSUANT TO 37 CFR 1.47(b)**

I, Richard Jones, President of Lehigh Safety Shoe Co. LLC ("Lehigh Safety Shoe") make this Declaration in support of the accompanying Petition to file an Application for United States Patent Pursuant to 37 CFR 1.47(b) by Lehigh Safety Shoe. The statements made herein are based on my own knowledge, on information and belief, and on advise of counsel.

1. I am advised by counsel that pursuant to the Manual of Patent Examining Procedure, Section 409(f), a 37 CFR 1.47(b) Applicant must prove that it has sufficient proprietary interest in the subject matter to justify the filing of the application, or that the inventor, in this case, Ruk Peterson, has agreed in writing to assign the invention to the Applicant.

2. Ruk Peterson was employed by Endicott Johnson Corporation, and companies which succeeded to the safety shoe business of Endicott Johnson Corporation, including Lehigh Safety Shoe, from March 1, 1994 to June 13, 2000. Ruk Peterson was hired to design products, including the metatarsal guard of the present invention, while so employed.

3. I am advised by counsel that if an employee is hired to invent or is assigned the duty of , devoting effort to a particular problem, the resulting invention belongs to the employer and the inventor is bound to assign to the employer any patent obtained. Lipscomb's Walker on Patents, (3d ed. 1986) §19.13, citing Blum v. Commission, 183 F.2d 281, 86 USPQ 118 (1950, CA 3).

4. The metatarsal guard which is the subject of the present invention was designed by Ruk Peterson pursuant to his employment with Lehigh Safety Shoe Co. and its predecessor companies and his duty to invent and design the metatarsal guard. I am advised by counsel that

therefore the present invention should be assigned to Lehigh Safety Shoe.

5. A Confidential Information and Assignment Agreement between Ruk Peterson and Endicott Johnson Corporation dated March 30, 1994 (the "Assignment Agreement") is annexed hereto as Appendix I. In consideration of Mr. Peterson's current and future employment by Endicott Johnson Corporation, Mr. Peterson printed his name on the Assignment Agreement to signify his acceptance thereof. I am advised by counsel that the Assignment Agreement was transferred with the assets of the safety shoe business from Endicott Johnson Corporation to Lehigh Safety Shoe Co., and that as a result of Lehigh Safety Shoe Co., subsequently merging with and into Lehigh Safety Shoe, Lehigh Safety Shoe has the benefit of the Assignment Agreement.

6. The Assignment Agreement provides that the:

"Employee agrees to assign to the Company the entire right, title and interest, for the United States of America and all foreign countries, in and to any and all designs, manufacturing processes and copyrights that are conceived or reduced to practice by Employee (either alone or jointly with others) during the term of employment."

The metatarsal guard which is the subject of the present invention was conceived and designed by Mr. Peterson during his employment with Lehigh Safety Shoe and/or its predecessor companies. I am advised by counsel that therefore, pursuant to the Assignment Agreement, the present invention should be assigned to Lehigh Safety Shoe.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date:

5/25/01  
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Richard Jones

President

Lehigh Safety Shoe Co. LLC